

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
to open a docket and to establish a deadline for)
telecommunications providers to petition the)
Commission for a determination to rebut the)
national finding of non-impairment for unbundled)
local circuit switching in the enterprise market.)
_____)

Case No. U-13895

At the October 7, 2003 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER COMMENCING PROCEEDING AND ESTABLISHING DEADLINE

On February 20, 2003, the Federal Communications Commission (FCC) announced that it was adopting rules in its Triennial Review proceeding¹ that will affect how incumbent local exchange carriers (ILECs) meet their statutory obligations to make unbundled network elements available to new entrants.

In an order issued on May 28, 2003 in Case No. U-13796, the Commission commenced a proceeding to facilitate the implementation of the FCC's anticipated Triennial Review Order

¹Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147.

(TRO) by soliciting input from stakeholders. In so doing, the Commission requested comments on certain specific issues.

On August 21, 2003, the FCC released the text of its TRO, which was published in the Federal Register on September 2, 2003 and which became effective on October 2, 2003. Among other things, the TRO determined on a national basis whether competitive local exchange carriers (CLECs) are impaired in the market without access to certain elements of an ILEC's network. In so doing, the FCC made a national finding that telecommunications carriers requesting interconnection are not impaired in the enterprise market without access to local circuit switching to serve customers using DS1 capacity and above.

The FCC provided that states may rebut this finding within 90 days of the effective date of the TRO. The FCC gave the states an opportunity to conduct a more granular analysis of the markets subject to their jurisdiction and to determine whether CLECs are impaired competitively without access to those network elements in certain geographic areas or to specific end users. The FCC order also provided that, if a state commission fails to exercise its authority in this regard, a party may petition the FCC to step into the role of the state commission and the FCC may assume responsibility for conducting the proceeding.

To date, the Commission has received no indication of impairment to carriers serving enterprise customers without access to DS1 and above for local circuit switching. However, because such a determination must be made, if at all, within 90 days of the effective date of the TRO (or by January 1, 2004), the Commission is persuaded that it should establish a deadline for parties interested in this issue to file a statement of position, prepared direct testimony, and supporting documentation, including the designation of all geographic areas encompassed by the filing, in this docket by October 20, 2003. A party filing a statement of position, prepared direct testimony,

and supporting documentation shall publish notice of its filing and of the schedule for the proceeding established by this order in newspapers of general circulation throughout the state by October 24, 2003. Such party shall also serve a copy of its filing on all parties to Cases Nos. U-13796 and U-13869 by October 24, 2003. Other participants, if any, shall file statements of position, prepared direct testimony, and supporting documentation by October 30, 2003. If a party makes such a filing, the following deadlines will apply: Rebuttal testimony shall be filed by November 7, 2003. Cross-examination of the witnesses of all parties shall take place on November 13, 2003. Briefs are to be filed by November 26, 2003 with reply briefs being due on December 8, 2003. The Commission will read the record.

The Commission has selected this case for participation in its Electronic Filings Program. Documents filed in this case must be submitted in both paper and electronic versions. An original and four paper copies and an electronic copy in the portable document format (PDF) should be filed with the Commission. Requirements for filing electronic documents can be found in the Electronic Filings Users Manual at: <http://efile.mpsc.cis.state.mi.us/efile/usersmanual.pdf>. You may contact the Staff at 517.241.6170 or by e-mail at mpscefilecases@michigan.gov with any questions and to obtain access privileges prior to filing. If any residential customers seek to participate, but lack access to the computer equipment necessary to make electronic filings, they should contact the Executive Secretary to make alternative arrangements for filing comments.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.; and 47 USC 251 and 252.

b. A separate docket should be opened and a deadline should be established for telecommunications providers to petition the Commission for a determination to rebut the national finding of non-impairment for unbundled local circuit switching in the enterprise market.

THEREFORE, IT IS ORDERED that:

A. A separate docket is opened for telecommunications providers to petition the Commission for a determination to rebut the national finding of non-impairment for unbundled local circuit switching in the enterprise market.

B. A party petitioning the Commission for a determination pursuant to this order shall file a statement of position, including the designation of all geographic areas encompassed by the filing, prepared direct testimony, and supporting documentation by October 20, 2003.

C. A party petitioning the Commission for a determination pursuant to this order shall also publish notice of its filing and of the schedule for the proceeding established by this order in newspapers of general circulation throughout the state, and shall serve a copy of its filing on all parties to Cases Nos. U-13796 and U-13869 by October 24, 2003.

D. Other participants shall file statements of position, prepared direct testimony, and supporting documentation by October 30, 2003.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark

Chair

(S E A L)

/s/ Robert B. Nelson

Commissioner

/s/ Laura Chappelle

Commissioner

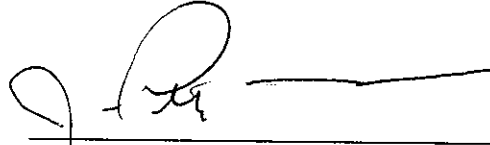
By its action of October 7, 2003.

/s/ Robert W. Kehres

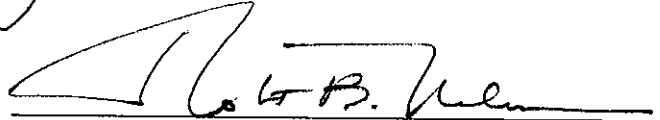
Its Acting Executive Secretary

The Commission reserves jurisdiction and may issue further orders as necessary.

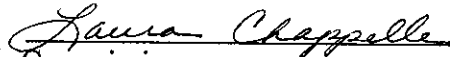
MICHIGAN PUBLIC SERVICE COMMISSION



Chair



Commissioner



Commissioner

By its action of October 7, 2003.



Its Acting Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

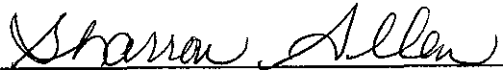
Case No. U-13895

County of Ingham)

Patricia A. Fronta being duly sworn, deposes and says that on October 7th 2003, A.D. she served a copy of the attached Commission orders by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.


Patricia Fronta

Subscribed and sworn to before me
this 7th day of October 2003


Notary Public, Ingham, County, Michigan
My Commission expires August 16, 2004

ALL COMMUNICATION ORDERS

PAGE: 1
DATE: 09/18/2003

4M COMMUNICATIONS, INC.
P.O. BOX 269
TRAVERSE CITY MI 49685-0269

DATABASE SERVICES
LEXIS NEXIS
P.O. BOX 933
DAYTON OH 45401-

MR. DON EITNIEAR I.D.
DMB - TELECOMMUNICATIONS DIV.
OTTAWA BUILDING
LANSING ID MAIL

MR. AGRIS PAVLOVSKIS
MICHIGAN EXCHANGE CARRIERS ASSOCIATION
P. O. BOX 20025
LANSING MI 48901-0025

MR. PHILLIP CROSS
PUBLIC UTILITIES REPORTS, INC.
8229 BOONE BOULEVARD, SUITE 401
VIENNA VA 22182-

MS. MONICA MARTINEZ
SENATE DEMOCRATIC STAFF
ROMNEY BUILDING
LANSING ID MAIL

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Hubbard, OR 97302

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12202 Airport Way, Ste. 300
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A.R.C. Networks, Inc.
Eugene Conlon
175 Pinelawn Rd, Ste 408
Melville, NY 11747-3180

Access One, Inc.
Mark Jozwiak
820 W. Jackson Blvd, 4th Floor
Chicago, IL 60607

Accu Tel of Texas, Inc.
Debi Glick
7900 Carpenter Freeway
Dallas, TX 75247

ACD Telecom, Inc.
Kevin Schoen
4980 Northwind Dr.
East Lansing, MI 48823-5089

ACN Comm. Services, Inc.
32991 Hamilton Ct.
Farmington Hills, MI 48334

Adelphia Business Solutions
One North Main St
Coudersport, PA 16915

Affinity Network, Inc.
Rowena Valle
4380 Boulder Hwy.
Las Vegas, NY 89121

Affinity Telecom
Mr. John Kopanakis
40700 Woodward, Ste 220
Bloomfield Hills, MI 48304

Allegiance Telecom of Michigan
Mary Albert
1919 M Street NW, Ste 420
Washington, DC 20036

Allendale Telephone Company
Mike Osborne
6568 Lake Michigan Dr, PO Box 509
Allendale, MI 49401

Alticomm, Inc
James Cornblatt
115 Shawmut Road
Canton, MA 02021

American Fiber Network, Inc.
Rob Heath
9401 Indian Creek Pkwy, Ste 140
Overland Park, KS 66210

SBC Ameritech Michigan
Robin Gleason
201 N. Washington Sq, Room 920
Lansing, MI 48933

AmeriVoice Telecommunications
Louis Miller
212 W. Wisconsin Ave., Ste. 500
Milwaukee, WI 53203

ARBROS Communications Licensing
Robert Condon
P.O. Box 59
Beltsville, MD 20704-0059

AT & T Communications of MI
Frances Brown
215 S. Washington Sq., Ste. 230
Lansing, MI 48933

Atlas Communications LTD.
B. Miller
100 Front St., Ste. 1370
Conshohocken, PA 19428

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Saul Anuzis
5 Locust Lane
Lansing, MI 48911

Baraga Telephone Company
Bill Stark
204 State. St.
Baraga, MI 49908

Bilan Communications Inc.
Patricia Rountree
168 Riley St, PO Box 20
Dundee, MI 48131

Birch Telecom of the Great Lakes
Barb Fillinger
2020 Baltimore Ave.
Kansas City, MO 64108

Bloomington Telephone Co., Inc.
Sid Shank
P. O. Box 187
Bloomington, MI 49026

Borderland Communications
Bruce Reubar
1133 Main, PO Box 3
Niagara, WI 54151

Broadview Networks
Ana Bataille
400 Horsham Rd., Ste. 130
Horsham, PA 19044

Broadwing Local Services, Inc.
Karen Hanson
1122 Capital of Texas Highway, S
Austin, TX 78746-6426

Brooks Communications
James R. Denniston
205 N Michigan Ave, Ste 1100
Chicago, IL 60601

BT Communications Sales
A. Sheba Chacko
11440 Commerce Park Drive
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Tom Tisko
25900 Greenfield Rd., Ste. 330
Oak Park, MI 48237

C2C Fiber of Michigan LLC
Kyle Dickson
8275 El Rio, Ste. 110
Houston, TX 77054

C3 Networks & Comm LP
Jay Jadwin
1 Riverside Plaza
Columbus, OH 43215

Call Giant
David Thiery
21419 VanDyke
Warren, MI 48089

Call One
Criag Foster
500 W Madison St, Ste 411
Chicago, IL 60661

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4325 Masten Rd.
Branch, MI 49402

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Debra Waller
4142 Melrose Ave NW, Ste 25
Roanoke, VA 24017-0129

CCCM, Inc. d/b/a CONNECT!
Carole Hamon
PO Box 619
Bryant, AR 72089 -0619

CenturyTel Solutions LLC
Ron Johnson
100 Century Tel Dr.
Monroe, LA 71203

Ciera Network Systems, Inc.
1250 Wood Branch Park Dr, Ste 600
Houston, TX 77079

CIMCO Communications Inc.
William Capraro Jr.
1901 S. Meyers Rd, Ste 700
Oakbrook Terrace, IL 60181

Coldwater Telecomm Utility
Linden H. Cox
28 W. Chicago St., PO Box 469
Coldwater, MI 49036

CityNet Telecom, Inc.
Mark Perkell
8403 Colesville Rd, 14th Fl
Silver Springs, MD 20910

Clear Rate Comm, Inc
Thane Namy
23300 Greenfield Rd, Ste 116
Oak Park, MI 48237

Climax Telephone Company
Gilbert Collver
110 North Main St.
Climax, MI 49034

CMC Telecom, Inc.
Craig M. Champagne
50481 Pontiac Trail
Wixom, MI 48393

Coast to Coast
Stephanie Kurlan
9201 N. Central Expressway
Dallas, TX 75231

Cogent Comm of MI
Ried Zulager
1015 31st Street, NW
Washington, DC 20007

Comcast Business Communications
Beth Choroser
1500 Market Street
Philadelphia, PA 19102

Comcast Telecommunications of MI
Richard R. Wolfe
29777 Telegraph Rd., Ste. 4400-B
Southfield, MI 48034

Comm South Companies, Inc.
Shari Pringle
2909 N. Buckner Blvd., Ste. 800
Dallas, TX 75228

Computer Intelligence 2 Inc. (CI2)
Tonia Landry
200 Galleria Pkwy NW, Ste. 1550
Atlanta, GA 30339

Cordia Communications Corp.
Maria Abbagnaro
54 Danbury Rd, Ste 370
Ridgefield, CT 06877

CoreComm Michigan Inc.
Bruce Bennett
70 W. Hubbard, Ste. 410
Chicago, IL 60610

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David C. Hoover
29777 Telegraph Rd., Ste. 2151
Southfield, MI 48034

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3838 N Sam Houston Pkwy E, Ste 400
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Petersburg, MI 49270

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William Cobb III
100 Congress Ave, Ste 2000
Austin, TX 78701

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Alan J. Dole
P. O. Box 3660
Glen Allen, VA 23058-3660

dPI-Teleconnect LLC
David Pikoff
2997 LBJ Freeway, Ste.225
Dallas, TX 75234

Drenth Telephone Company
Wayne Ter Haar
738 64th Ave.
Zeeland, MI 49464

DSLnet Communications LLC
Wendy Bluemling
545 Long Wharf Dr., Fifth Floor
New Haven, CT 06511

EagleNet, Inc.
Victor Shepherd
5222 33rd St., SE
Grand Rapids, MI 49512

Easton Telecom Services Inc.
Beth Stewart
3046 Brecksville Rd., Summit II Bldg.
Richfield, OH 44286

Emergent Communications LLC
Greg Ballard
801 Nicolet Mall, Ste 350
Minneapolis, MN 55402

Enkido Solutions
Nayel Shafei
411 Hackensack Ave, Fl 9
Hackensack, NJ 07601-6357

Ernest Communications Inc.
Joseph J. Ernest
6475 Jimmy Carter Blvd., Ste. 300
Norcross, GA 30071

Essential.com, Inc **Being Removed**
Peter Mills **9/29/03 per wt**
Three Burlington Woods Dr, 4th Fl
Burlington, MA 01803

Everest Connections Corp.
Rachel Lipman Reiber
9647 Lackman Rd
Lenexa, KS 66219

Excel Telecommunications Inc.
Becky Gipson
1600 Viceroy Dr.
Dallas, TX 75235

EZ Phone
Daniel J. Coulter
1095 Home Ave.
Akron, OH 44310

Fairpoint Comm
Michael Kent
521 E. Morehead St, Ste 250
Charlotte, NC 28202-2695

Fibernet of Michigan
Steve Hamula
211 Leon Sullivan Way
Charleston, WV 25301

First Communications, LCC
3340 W Market Street
Fairlawn, OH 44333-3306

Focal Communications
Jane Van Duzer
200 North LaSalle St., Ste. 820
Chicago, IL 60601

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Ron Williams
109 Randolph Street
Brooklyn, MI 49230

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Cathy Murray
101 N. Wacker Dr, #220
Chicago, IL 60606-7301

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Robert Smith
2810 Spring Rd SE, Ste. 106
Atlanta, GA 30339-3066

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Gavin McCarty
333 W Wacker Dr., 15th Fl.
Chicago, IL 60606

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C Hopkins
2755 Buckingham
Birmingham, MI 48009

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Lance J. M. Steinhart
1720 Windward Concourse #250
Alpharetta, GA 30005

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R. Wesley Kelley
45 Monroe St., PO Box 271
Hillsdale, MI 49242

Horizon Telecommunications
Richard C. Gould
4660 S. Hagadorn Rd., Ste. 320
East Lansing, MI 48823

ICG Telecom Group
Scott Beer
161 Inverness Dr. West
Englewood, OC 80112

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Carl Billek
520 Broad Street
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5018 196th Street
Fresh Meadows, NY 11365-1319

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1610 Dry Creek Rd.
Longmont, CO 80503

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Barbara S. Will
14860 Montfort Dr, Ste. 210
Dallas Texas 75254-6772

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66 E. Michigan Ave.
Battle Creek, MI 49017

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Tyrus D. Toles
19310 Joy Rd.
Detroit, MI 48228

KMC Data LLC
Randy Meacham
1755 North Brown Rd.
Lawrenceville, GA 30043

KMC Telecom II Inc.
Mike Duke
1755 North Brown Rd.
Lawrenceville, GA 30043

KMC Telecom III Inc.
Mike Duke
1755 North Brown Rd.
Lawrenceville, GA 30043

KMC Telecom V Inc.
Randy Meacham
1755 North Brown Rd.
Lawrenceville, GA 30043

Lennon Telephone Company
Paul Bowman
3095 S Sheridan Ave., PO Box 329
Lennon, MI 48449

Level 3 Communications LLC
William P. Hunt
1025 Eldorado Blvd.
Broomfield, CO 80021

Lightyear Communications, Inc
John Grieve
1901 Eastpointe Parkway
Louisville, KY 40223

Local Exchange Carriers Of MI
Pete Lemke
3923 28th St SE, # 138
Grand Rapids, MI 49512

LDMI
Jerry Finefrock
8801 Conant St.
Hamtramck, MI 48211-1403

Lucre, Inc.
R. Steven Hale
4011 Plainfield NE
Grand Rapids, MI 49525

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211 S Clinton Street
Stockbridge, MI 49285

Maxcess
James Marchant
PO Box 951419
Lake Mary, FL 32795-1419

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103 N. Wickham St., P. O. Box 280
Alvord, TX 76225

MCI Metro Access Services Inc.
James R. Denniston
205 North Michigan Ave., Ste. 1100
Chicago, IL 60601

MCI WorldCom, Comm Inc.
James R. Denniston
205 North Michigan Ave., Ste. 1100
Chicago, IL 60601

McLeod USA
Dawn Haase
6400 C St. SW, P. O. Box 3177
Cedar Rapids, IA 52406 3177

MediaGate Communications, Inc.
Mark Winslow
122 Lake St.
Crystal, MI 48818

Metro Teleconnect Companies
2150 Herr St.
Harrisburg, PA 17103

Metromedia Fiber Network Services
Karen Nations
One Metromedia Plaza
East Rutherford, NJ 07073

Metronet-Telecom, Inc.
David Choma
2182 N. Cedar
Holt, MI 48842

Metropolitan Telecomm of MI
Andoni Economou
44 Wall St, 14th Floor
New York, NY 10005

MichTel, Inc.
Kevin Fryover
10 W. Huron St.
Pontiac, MI 48342-2100

Midwestern Telecomm Inc.
Jerry Holt
600 Holiday Plaza Dr, Ste 505
Matteson, IL 60443-2238

Mpower Comm Central Corp.
David McGann
1701 Golf Rd., Tower 2, 5th Floor
Rolling Meadows, IL 60008

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David Woodsmall
175 Sully's Trail, Ste 300
Pittsford, NY 14534

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P. O. Box 13860
North Little Rock, AR 72113-3860

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42850 Garfield, Ste 102
Clinton Twp., MI 48038

New Access Communications LLC
Gregory Wilmes
801 Nicolet Mall, Ste. 350
Minneapolis, MN 55402

New Edge Networks
Stacey Waddell
3000 Columbia House Blvd, Ste 106
Vancouver, WA 98661

New Rochelle Telephone Corp.
Maria Abbagnaro
543 Main St.
New Rochelle, NY 10801

Nexus Communications
7830 N. Central Dr., Ste. C
Lewis Center, OH 43035

NOS Communications
Rowena Valle
4380 Boulder Hwy.
Las Vegas, NV 89121

NOW Communications
Larry W. Seab
1375 S. Semoran Blvd, Ste 1348, Bldg 5
Winter Park, FL 32792

NTERA, INC.
1020 NW 163rd Drive
Miami, FL 33169

O1 Comm of MI, LLC
James Kirkland
2000 E Lemar Blvd, Ste 730
Arlington, TX 76006

One Point Communications - IL LLC
105 Field Dr., Ste. 300
Lake Forest, IL 60045

OneStar Long Distance, Inc.
Ami Larrison
7100 Eagle Crest Blvd.
Evansville, IN 47715

OnFiber Carrier Services
James Booth
7887 E Belleview Ave, Ste 820
Englewood, CO 80111

PaeTec Communications Inc.
J.T. Ambrosi
600 Willowbrook Office Pk.
Fairport, NY 14450-4233

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Dallas, TX 75247

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Addison, TX 75001

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DeSoto, TX 75115

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Kathleen Kerr-Lawrence
1700 Old Meadow Rd., 3rd Floor
MacLean, VA 22102

Quantum Shift Communications
Edward A. Brinskele
88 Rowland Way, Ste. 145
Novato, CA 94945

Quick Communications
Amy Harris
5850 Dixie Highway
Clarkston, MI 48346

Qwest Communications Corporation
David Ziegler
1801 California St., 47th Fl.
Denver, CO 80202

Qwest Interprise America, Inc.
Carol Kuhnnow
4250 N. Fairfax Dr., 13th Fl.
Arlington, VA 22203

RACC Enterprises, LLC
Richard L. Bacon
7381 US 31 North, PO Box 1200
Alanson, MI 49076

Range Corporation
David J. Savolainen
2342 U.S. 41 West
Marquette, MI 49855

Reliant Communications, Inc
Herbert Newton
3235 Satellite Blvd, Bldg 400, Ste 300
Duluth, GA 30096

Sage Telecom, Inc.
Stephanie Timko
805 Central Expressway, Ste 100
Allen, TX 75013-8010

ServiSense.Com
Christopher McKeown
115 Shawmut Road
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Mailstop KSOPHN0212-2A461
Overland Park, KS 66251

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Southfield, MI 48075

Sun Communications, LLC
Carolyn Titchnell
18530 Mack Ave, Ste 442
Grosse Pte Farms, MI 48236

Superior Spectrum Inc.
David Puskala
620 South Lake Street
Marquette, MI 49855

Suretel, Inc.
Candice Gateley
5 N. McCormick
Oklahoma City, OK 73127

T2 Communications, LLC
Ned Timmer
301 Hoover Blvd
Holland, MI 49423

Talk America Inc.
Sharon Thomas
12001 Science Dr., Ste. 130
Orlando, FL 32828

Talk Unlimited Now, Inc.
3606 S Waverly Place
Tampa, FL 33629

TC3 Telecom Inc.
Joseph P. Mattausch
1114-F South Winter St.
Adrian, MI 49221

TCG-Detroit
Frances Brown
215 S. Washington Sq, Ste 230
Lansing, MI 48933

TDS MetroCom, Inc.
Shane Kaatz
525 Junction Rd., Ste. 6000
Madison, WI 53717

Tel Com Plus
Julie Graton
2277 19th Avenue, SW
Largo, FL 33774-1713

Telepacific Comm
David Glickman
515 S Flower St, 49th Fl
Los Angeles, CA 90071

Telera Communications, Inc.
Robert Stewart
910 E. Hamilton
Campbell, CA 95008

Teligent Services, Inc.
Jennifer Martin
460 Herndon Pkway, Ste 100
Herndon, VA 20170

Telnet Worldwide, Inc.
Mark Iannuzzi
1017 Naughton Road
Troy, MI 48083

The Free Network, LLC
Ascanio Terracciano
1607 E Big Beaver Rd, Ste 201
Troy, MI 48083

TransNational Communications
Richard Hargrave
2 Charles Gate West
Boston, MA 02215

Rural Communications
56 N. Main Street
Three Rivers, MI 49091

TruComm Corporation
Martin S. Segal
1608 Barclay Blvd.
Buffalo Grove, IL 60089-4523

Truly Clear Communications
Patrice Henderson
PO Box 35320
Detroit, MI 48235

United Telecom, Inc.
Scott Baldwin
11150 Bridle Path
Alanson, MI 49706

Universal Access Inc.
Tina Tyglieski
233 S. Wacker Dr., Ste. 600
Chicago, IL 60606

Universal Telecom, Inc.
Sir/Madam
P.O. Box 679
LaGrange, KY 40031

US Signal Co., LLC
Barbara Boshoven
20 Monroe NW, Ste 450
Grand Rapids, MI 49503

Choice One Communications
Mary Whiting
56 Grandville, SW
Grand Rapids, MI 49503

VarTec Telecom, Inc.
1600 Viceroy Dr.
Dallas, TX 57235-2306

Verizon Select Services Inc.
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Vertex Broadband
925 N. Wilwaukee Ave.
Wheeling, IL 60090

Waypoint Telecommunications
124 W. Allegan, Ste. 1120
Lansing, MI 48933

Westphalia Telephone Company
Dave Fox
109 E. Main St., PO Box 327
Westphalia, MI 48894

WilTel Locak Network, LLC
Kathy Hough
One Technology Center TC-7B
Tulsa, OK 74103

Winn Telephone Company
Les Jenkins
2766 W Blanchard Rd, PO Box 367
Winn, MI 48896

Winstar Communications, LLC
Kimberly A. Bradley
1850 M Street NW, Ste 300
Washington, DC 20036

XOMichigan, Inc.
Theresa Powell
Two Easton Oval, Ste 300
Columbus, OH 43219

Z-Tel Communications Inc.
Tim Seat
601 South Harbor Island, Ste. 220
Tampa, FL 33602

Winn Telephone Company
Les Jenkins
2766 W. Blanchard Rd, PO Box 367
Winn, MI 48896

Ace Telephone Company of Michigan, Inc.
David Schroeder
102 E. Mesick Ave, PO Box 69
Mesick, MI 49668-0069

Barry County Telephone Company
Robert Fisher
P.O. Box 128
Delton, MI 49046

Blanchard Telephone Association, Inc.
Duane Bronson
P.O. Box 67
Blanchard, MI 49310

CenturyTel Midwest -- Michigan, Inc.
Vickie Norris
17 S. High Street, Ste 1250
Columbus, MI 43215

CenturyTel of Michigan, Inc.
Vickie Norris
17 S. High Street, Ste 1250
Columbus, MI 43215

CenturyTel of Northern Michigan, Inc.
Vickie Norris
17 S. High Street, Ste 1250
Columbus, MI 43215

CenturyTel of Upper Michigan, Inc.
Vickie Norris
17 S. High Street, Ste 1250
Columbus, MI 43215

Chapin Telephone Company
Greg Ringle
19994 W. Ridge Road
Elsie, MI 48831

Chippewa County Telephone Company
Bill Beaune
101 State St, PO Box 309
Brimley, MI 49715

Contel of the South, Inc., d/b/a Verizon
North Systems
Paul Fuglie
860 Terrace Street
Muskegon, MI 49440

Hiawatha Telephone Company
Robert Orent
108 West Superior Street
Munising, MI 49862

Kaleva Telephone Company
Harry Cribbs
9281 Osmo Street
Kaleva, MI 49645

Midway Telephone Company
Robert Orent
108 West Superior Street
Munising, MI 49862-1192

Ogden Telephone Company
Linda Corie
4726 E. Weston Road
Blissfield, MI 49228

Ontonagon County Telephone Company
Robert Orent
108 West Superior Street
Munising, MI 49862-1192

360 Networks (USA)
Sir/Madam
12202 Airport Way, Ste. 300
Broomfield, CO 80021 2587

Peninsula Telephone Company
Jack Solomonson
14909 Peninsula Drive
Traverse City, MI 49686

Pigeon Telephone Company
Edwin Eichler
11 S. Main, PO Box 650
Pigeon, MI 48755

Sand Creek Telephone Company
Neil Percy
6525 Sand Creek Highway
Sand Creek, MI 49279

SBC Ameritech Michigan
Robin Gleason
201 N. Washington Sq, Room 920
Lansing, MI 48933

Springport Telephone Company
William Hammond
400 E Main S, PO Box 208
Springport, MI 49284

For use with Commission's Own Motion – Communications Orders Only

TDS Telecom/Shiawassee Telephone Co.
Eugene Newell
129 South Main Street
Perry, MI 48872

TDS Telecom/Wolverine Telephone Co.
Melody King
4712 E. Main S, PO Box 292
Millington, MI 48746

Upper Peninsula Telephone Company
Calvin Matthews
397 U.W. 41 N, PO Box 86
Carney, MI 49812

Verizon North Inc.
Paul Fuglie
860 Terrace Street
Muskegon, MI 49440

Waldron Telephone Company
Kathryn Fox
119 S. Main St, PO Box 197
Waldron, MI 49288-0197

Sprint Communications
Brett Leopold
Sprint Mailstop KSOPHN0212-2A461
Kansas City, MO 64112

Choice One Communications
Tony Mastando & Elizabeth McDonald
600 Chestnut St., Ste. 600
Lancaster, NY 14604

CLECs-ILECs-IXCs Combined